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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,916	12/11/2003	A. James Schutz	LLJ-10102/08	8483

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EXAMINER

TORRES, ALICIA M

ART UNIT PAPER NUMBER

3671

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,916

Applicant(s)

SCHUTZ, A. JAMES

Examiner

Alicia M Torres

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JW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the outwardly bent distal ends of the tines, as per claims 3, 11, and 16, must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

DETAILED ACTION

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 6-10, 12-15, 17, 19, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Doering et al., hereafter Doering.

4. In regards to claims 1, 2, 4, 6-8, Doering discloses an apparatus operative for gathering yard refuse from a ground surface, said apparatus comprising:

a gathering device having a frame (10) and a motor (unnumbered, see figure 8), said frame (10) supporting an elongated rotor (16) having a longitudinal axis, said elongated rotor

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(16) being disposed with a plurality of spaced apart tines (14) extending perpendicular to the longitudinal axis, said elongated rotor (16) driven by said motor,

said tines (14) operative to gather yard refuse from the ground surface when rotating and being moved over the ground surface;

a pair of wheels (12) operative to support said frame (10) on the ground surface;

an adjustment mechanism (77) disposed between said pair of wheels (12) and said frame (10) to adjust the position of the elongated rotor (16) with respect to the ground surface; and

a basket (170) for holding the yard refuse collected from the ground surface by the gathering device, as per claim 1; and

wherein the gathering device further comprises a shield (6) for preventing the collected yard refuse from being ejected out from said gathering device, as per claim 2; and

wherein the basket (170) is a hinged basket (at 86) adapted to be selectably attachable to the gathering device, as per claim 4; and

wherein the gathering device is further operative for thatching a lawn, as per claim 6; and

wherein the elongated rotor (16) appears to be 36-108 inches in length, as per claim 7;

wherein the elongated rotor is selectably attachable to the gathering device (see column 2, lines 59-62), as per claim 8.

5. In regards to claims 9, 10, 12, 13, Doering discloses an apparatus adapted to be towed by a vehicle and operative for gathering yard refuse from a ground surface, said apparatus comprising;

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a gathering device having a frame (10) that supports an elongated rotor (16) and a motor (unnumbered) in communication with said elongated rotor (16), said elongated rotor (16) having a plurality of spaced apart tines (14) and mounted to said frame (10) to be rotatably driven by said motor, said tines (14) operative to gather yard refuse from the ground surface when rotating and being towed over the ground surface;

a pair of wheels (12) operative to support said frame (10) on the ground surface;

an adjustment mechanism (77) disposed between said pair of wheels (12) and said frame (10) to adjust the position of the elongated rotor (16) with respect to the ground surface; and

a basket (170) for holding the yard refuse collected from the ground surface by the gathering device, as per claim 9; and

wherein the gathering device further comprises a shield (6) for preventing the collected yard refuse from being ejected out from said gathering device, as per claim 10; and

wherein the basket (170) is a hinged basket (at 86) adapted to be selectably attachable to the gathering device, as per claim 12; and

wherein the elongated rotor is selectably attachable to the gathering device (see column 2, lines 59-62), as per claim 13.

6. In regards to claims 14, 15, 17, 19, 20, Doering discloses An apparatus adapted to be towed by a vehicle and operative for gathering sticks from a ground surface, said apparatus comprising:

a gathering device having a frame (10) that supports an elongated rotor (16) and a motor (unnumbered) in communication with said elongated rotor (16), said elongated rotor (16) having

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a plurality of spaced apart tines (14) and operative to be rotatably driven by said motor, said tines (14) operative to gather sticks from the ground surface when rotating and being towed over the ground surface;

a pair of wheels (12) operative to support said frame (10) on the ground surface;

an adjustment mechanism (77) disposed between said pair of wheels (12) and said frame (10) to adjust the position of the elongated rotor (16) with respect to the ground surface; and

a basket (170) for holding the sticks collected from the ground surface by the gathering device, as per claim 14; and

wherein the gathering device further comprises a shield (6) for preventing the collected yard refuse from being ejected out from said gathering device, as per claim 15; and

wherein the basket (170) is a hinged basket (at 86) adapted to be selectably attachable to the gathering device, as per claim 17; and

wherein the gathering device is further operative for thatching a lawn, as per claim 19;
and

wherein the elongated rotor is selectably attachable to the gathering device (see column 2, lines 59-62), as per claim 20.

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Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doering in view of Jobling et al., hereafter Jobling.

The device is disclosed as applied above. However, Doering fails to disclose wherein the tines include distal ends that are bent outwardly toward a direction of rotation of the elongated rotor.

Jobling discloses a similar rake wherein the tines (58) include distal ends that are bent outwardly (57) toward a direction of rotation of the elongated rotor (52).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the outwardly bent ends of the tines of Jobling on the tines of Doering in order to afford a more effective removal of material from the turf.

9. Claims 5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doering in view of Stewart and Bragg et al., hereafter Bragg..

The device is disclosed as applied above. However, Doering fails to disclose wherein the tines have a diameter of 1/2-1 1/2 inches and a length of 5-9 inches.

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Stewart teaches wherein the diameter of a tine is constructed depending on the material from which it was constructed (see column 2, line 71-column 3, line 4).

Bragg discloses a pickup apparatus wherein the length of the tine is about 5 ½ inches.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct a tine considering the material it is made from as taught by Stewart and use a 5 ½ inch length as taught by Bragg for the tine of Doering in order to provide the proper strength and resilience.

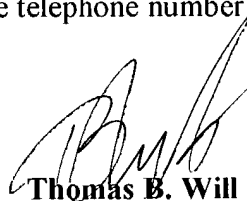
Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pardy, Garrison, and Wilson have been cited as of interest.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT June 2, 2004